REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on June 27, 2007, and the references cited therewith.

Claims 1, 12, 24, 32, and 39 are amended, no claims are canceled, and no claims are added; as a result, claims 1-47 are now pending in this application.

§ 112 Rejection of the Claims

Claims 1-47 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement.

The Examiner states that the reference to "kinds of assertions" is an additional level of abstraction that is different from assertions. Applicant respectfully submits that the "type" (or "kind") of assertions are clearly given, e.g., a "null pointer assertion" is one type or kind of assertion. A "locking assertion" is another type or kind of assertion. An "object state assertion" is yet another type of assertion all of which are provided as examples, fulfilling the written description requirement. It is not more abstract than that.

Further, one of ordinary skill in the art will readily recognize "null pointer assertion", "locking assertion", and "object state assertion" types. That is, a programmer could identify whether a given assertion is associated with a "type" of assertions referred to as "null pointer assertions". The programmer could similarly identify other assertions as being associated with a "type" of assertions known as "locking assertions". And, the programmer could identify still other assertions as being associated with a "type" of assertions termed "object state assertions".

Minutia description of null pointer assertions, locking assertions, and object state assertions is not germane to the enablement and support of the present claimed embodiments. Applicant has sufficiently identified these as types of assertions which are indeed known.

Reconsideration and withdrawal of the 112 rejection based on the written description requirement is respectfully requested.

Claims 1-47 were rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement.

Applicant's remarks given above equally apply to the Examiner's rejection under 112 as failing to comply with the enablement requirement with regards to the "type" or kind of assertion.

Under enablement, the Examiner has additionally raised issue with the claimed recitation of "analyze the kinds of assertions which fail most often against a set of questions (rules)". Applicant respectfully submits that one of ordinary skill in the art will recognize the manner in which "rules", i.e., if/then statements as the same are well know in the programming arts, can be implemented in software code to identify the above "types" of assertions from among a collection of failed assertions. Further, Applicant respectfully submits that a programmer will appreciate upon reading this disclosure the manner in which rules can be written to identify and "correlate" particular failed assertions in association with the above described "types".

Reconsideration and withdrawal of the 112 rejection based on the enablement requirement is respectfully requested.

Claims 1-11 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner noted that "the" assertions which fail lacks proper antecedent basis. Applicant has removed the term "the" and respectfully requests reconsideration and withdrawal of the 112 rejection for the same.

§ 102 Rejection of the Claims

Claims 1-47 were rejected under 35 USC § 102(e) as being anticipated by Blumenthal et al. (U.S. Publ. No. 2005/0055605).

Applicant does not admit that the Blumenthal reference is indeed prior art and reserves the right to swear behind the same at a later date. Nonetheless, Applicant respectfully submits that the present independent claims are distinguishable from the Blumenthal reference.

From the Applicant's review of the Blumenthal reference, there is no description, teaching, or suggestion to "score" assertions which fail.

In contrast, Applicant's independent claim 1, as amended, recites:

> program instructions provided to the memory and executable by the processor to:
> analyze assertions which fail most often against a set of questions (rules) to identify a frequency of occurrence in association with a kind for each failed assertion; and
> score assertions which fail based on the frequency of occurrence and the type.

Independent claim 12, as amended, recites:

> program instructions provided to the memory and executable by the processor to:
> analyze assertions which fail against a set of rules to determine a kind of assertion which repeatedly fails;
> score assertions which fail based on a frequency of occurrence and the kind of assertion.

Independent claim 24, as amended, recites:

> analyzing failed assertions against a set of questions to identify a frequency of occurrence in association with a type for each failed assertion; and
> scoring failed assertions based on the frequency of occurrence in association with the type for each failed assertion.

Independent claim 32, as amended, recites:

> analyzing assertions which fail against a set of rules to determine a kind of assertion which repeatedly fails;
> scoring assertions which fail based on a frequency of occurrence and the kind of assertion.

Independent claim 39, as amended, recites:

          analyzing failed assertions against a set of questions <u>to</u> <u>identify a frequency of occurrence in association with a type for</u> <u>each failed assertion</u>; and

          scoring failed assertions based on <u>the frequency of</u> <u>occurrence in association with the type for each failed assertion</u>.

In the interest of furthering prosecution of the present application, Applicant has amended independent claims 1, 12, 24, 32, and 39 to further articulate the nature of the "scoring" to the Examiner. Support for the above claim language can be found throughout the specification as originally filed. For example, on page 14 lines 19-28 the specification recites,

> program instructions are provided which execute to determine a **kind** of assertion which **repeatedly** fails. The program instructions execute to **assign points to each kind of assertion upon the occurrence** of the failed assertion and **the kind of assertion**. As the program instructions execute to assign points to the assertions, the assertions which fail with a greater frequency, e.g., are particularly useful in identifying one or more errors in the software code, will score more points. As noted above, the assertions which repeatedly fail are routinely effective in indicating issues in the software code undergoing testing, serving to catch glitches, bugs, or invalid states of execution in a program in the coding process.

Applicant respectfully submits that the above recited limitations are not analogous to the generic "count of a number of failures" noted by the Examiner in paragraph [0057] in the Blumenthal reference.

Further, Applicant respectfully submits that "a count of the number of failures" is not equivalent to the claim language "correlating assertions which fail with one or more types of assertions", recited in independent claim 44 as originally presented.

As such, Applicant respectfully submits that each and every element and limitation recited in the Applicant's independent claims 1, 12, 24, 32, 39, and 44 is not described in the Blumenthal reference.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 102 (e) rejection of these independent claims, as well as those claims which depend therefrom.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney Kevin Hart at (970) 898-7057 to facilitate prosecution of this matter.

At any time during the pendency of this application, please charge any additional fees or credit overpayment to the Deposit Account No. 08-2025.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 13th day of August, 2007.

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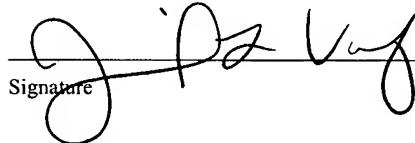
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